

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, et al.,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION NO.
)	1:17-cv-02989-AT
BRAD RAFFENSPERGER, et al.,)	
)	
Defendants.)	

RESPONSES AND OBJECTION OF NON-PARTY
CYNTHIA WILLINMGHAM, DIRECTOR OF ELECTIONS FOR THE
ROCKDALE COUNTY BOARD OF ELECTIONS AND REGISTRATION,
TO THE SUBPOENA TO PRODUCE DOCUMENTS FROM THE
COALITION FOR GOOD GOVERNANCE

COMES NOW Cynthia Willingham, in her official capacity as Director of Elections for the Rockdale County Board of Elections and Registration (“Rockdale County”), and, pursuant to Rule 45(d)(2)(B) of the Federal Rules of Civil Procedure, hereby serves these, her responses and objections to the Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action, dated December 22, 2020 (“Subpoena”) served by the Plaintiff Coalition for Good Governance, respectfully showing as follows:

1.

On December 22, 2020, Rockdale County received the Subpoena, a copy of

which is attached hereto as Exhibit A. The Subpoena purports to command production of 13 enumerated categories by 5:00 p.m. on January 12, 2021.

2.

Rockdale County objects to having to comply with the Subpoena for all the requested documents by the Subpoena's specified deadline because the short compliance deadline is unduly burdensome. The Subpoena requires, among other things, a comprehensive search of an email communications server and a review of communications for responsiveness and privilege. Rockdale County intends to produce the responsive, non-objectionable documents within its possession, custody, or control by Friday February 6, 2021, as set forth herein.

3.

If responsive documents exist, Rockdale County intends to comply with the requests set forth in the Subpoena except as otherwise noted below.

4.

Rockdale County responds to the individual Subpoena requests as follows:

Request No. 1: All reports, voter complaints, communications, incident reports, emails, text messages, and other documents regarding the problems encountered at the polling places in the November 3, 2020 election related to voter check-in, pollpad accuracy, and voting.

Response: Rockdale County objects to this request on the grounds that it is references to “complaints” and “problems” with “voting” are so vague as to preclude it from reasonably ascertaining the information sought by the request. Rockdale County further objects that the request contains an assumption that there were, in fact, “problems encountered at the polling places.” Without waiving and subject to said objections and based on Rockdale County’s good faith belief as to the information sought by the request, Rockdale County states it is unaware of any complaints by voters about check-in procedures or poll pad accuracy for the November 3, 2020 election. Thus, Rockdale County is not aware of any documents within its possession, custody, or control that are responsive to this request.

Request No. 2: Documents reflecting voter complaints relating to inaccuracy of the BMD printed ballots and all documents accounting for spoiled ballots for elections conducted after October 1, 2020.

Response: Rockdale County objects to this request on the grounds that it is references to “complaints” and “inaccuracy” with “BMD printed ballots” are so vague as to preclude it from reasonably ascertaining the information sought by the request. Rockdale County further objects that the request contains an assumption that there was, in fact, “inaccuracy [sic] of the BMD printed ballots.” Without

waiving and subject to said objections and based on Rockdale County's good faith belief as to the information sought by the request, Rockdale County states it is unaware of any complaints by voters about check-in procedures or poll pad accuracy for elections conducted after October 1, 2020. Thus, Rockdale County is not aware of any documents within its possession, custody, or control that are responsive to this request. In further response, however, Rockdale County will produce its spreadsheet of spoiled ballots for elections conducted in the specified time frame.

Request No. 3: Reports sent to Georgia Secretary of State after September 15, 2020 concerning errors, malfunctions, user errors, security concerns, ballot secrecy issues, or other operations problems related to the Dominion Voting System, including the KnowInk PollPad system.

Response: Rockdale County will produce those documents of which it has knowledge and are within its possession, custody, or control that it reasonably believes are encompassed by the request.

Request No. 4: Electronic copies of all scanned ballot images appended with the Auditmark record showing the interpretation of each vote where applicable, from both the election day count and the machine recount of the November 3, 2020 election.

Response: Rockdale County objects to this request on the ground that it seeks

confidential documents that are not subject to disclosure and which are maintained under seal. The disclosure of ballot images violates the voting protections afforded by the Georgia Constitution which provides for casting votes via secret ballot. *See* Ga. Const. Art. II, Sec. I, Para. I. Additionally, under O.C.G.A. § 21-2-500(a), votes must remain under seal for a period of 24 months, subject to release only upon order of a superior court. Plaintiff did not provide an order of a superior court releasing responsive documents, and Rockdale County thus objects to their production.

Request No. 5: An electronic copy of all Cast Vote Records from the Dominion “EMS Results Tally and Reporting” system, from both the original count and machine recount of the November 3, 2020 election.

Response: Rockdale County is not aware of any document named “Cast Vote Records” from the Dominion system, and thus is not aware of any documents within its possession, custody, or control that are responsive to this request.

Request No. 6: The names or other identifiers of all batches of ballots cast Absentee by Mail for which the election day count of that batch differs from the Hand Audit Count in the 2020 Presidential Election race.

Response: Rockdale County is not in possession, custody, or control of responsive documents related to election day vote counts because there were no batch sheets used for the initial count of votes for the November 3, 2020 election.

Further responding, Rockdale County will produce documents reflecting its total vote tallies from election day and from the hand recount.

Request No. 7: High quality scans of at least 300 dpi for all ballots in the batches identified above in item (6).

Response: Rockdale County incorporates by reference its response to Request No. 6 as if fully set forth herein.

Request No. 8: All documents related to attempts to reconcile the tallies between the original certified election day count and the audit hand count for the November 3, 2020 election.

Response: Rockdale County objects to this request on the ground that its reference to “attempts to reconcile the presidential contest tallies” is so vague as to preclude it from reasonably ascertaining the information sought by the request. Rockdale County further objects that the request contains an assumption that Rockdale County made “attempts to reconcile the presidential contest tallies” between election day and the audit hand recount. Without waiving and subject to said objections and based on Rockdale County’s good faith belief as to the information sought by the request, Rockdale County states that it is unaware of any documents reflecting attempts to reconcile the presidential contest tallies. Thus, Rockdale County is not aware of any document—other than the publicly available

tallies of the original count of ballots for the November 3, 2020 election and the hand recount—that are within its possession, custody, or control that are responsive to this request. Further responding, Rockdale County will produce documents reflecting its total vote tallies from election day and from the hand recount.

Request No. 9: All documents related to attempts to reconcile the tallies between the original certified election day count and machine recount for the November 3, 2020 election.

Response: Rockdale County objects to this request on the ground that its reference to “attempts to reconcile” is so vague as to preclude it from reasonably ascertaining the information sought by the request. Rockdale County further objects that the request contains an assumption that Rockdale County made “attempts to reconcile” between election day and the machine recount. Without waiving and subject to said objections and based on Rockdale County’s good faith belief as to the information sought by the request, Rockdale County states it is unaware of any documents reflecting attempts to reconcile the presidential contest tallies. Thus, Rockdale County is not aware of any documents—other than the publicly available tallies of the original count of ballots for the November 3, 2020 election and the machine recount—that are within its possession, custody, or control that are responsive to this request. Further responding, Rockdale County will produce

documents reflecting its total vote tallies from election day and from the machine recount.

Request No. 10: A copy of the Election Summary Report for all contests (not limited to the presidential contest) created by the Dominion system from the machine recount for the November 3, 2020 election.

Response: Rockdale County will produce those documents of which it has knowledge and are within its possession, custody, or control that it reasonably believes are encompassed by the request.

Request No. 11: All documents related to Dominion EMS batch management issues experienced by your county in fully processing all uploaded batches of ballot images through the system in any election. Such documents should include, but is not limited to, communications with any persons about the batch management issues.

Response: Rockdale County objects to this request on the grounds that its references to “batch management issues” or “other processing problems” are so vague as to preclude it from reasonably ascertaining the information sought by the request. Rockdale County further objects that the request contains an assumption that there were, in fact, “batch management issues” or that batches of ballot images were not “fully process[ed].” Without waiving and subject to said objections and

based on Rockdale County's good faith belief as to the information sought by the request, Rockdale County states it is unaware of any such issues for elections. Thus, Rockdale County is not aware of any documents within its possession, custody, or control that are responsive to this request.

Request No. 12: Electronic copies of all Adjudication Reports for all batches of ballots from the original official count and the machine recount of the November 3, 2020 election. Reports should include the "Activity Log Report," "Write-in Resolution Report," "Statistics Report," and "Quarantined Ballots Report" in either the Excel or CSV format.

Response: Rockdale County will produce those documents of which it has knowledge and are within its possession, custody, or control that it reasonably believes are encompassed by the request.

Request No. 13: Video surveillance recordings from all surveillance cameras in all early voting polling places from 6am December 14, through December 27, 2020.

Response: Rockdale County is unaware of any video surveillance cameras in the sole early voting location used between 6am December 14, through December 27, 2020. Because no surveillance cameras exist, Rockdale County is not in possession of any video surveillance recordings.

Respectfully submitted this 4th day of February, 2021.

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